

REMARKS

Applicants respectfully request consideration of the subject application. This Response is submitted in response to the Office Action mailed August 13, 2007. Claims 1-26 are pending. Claims 1-26 are rejected. In this Amendment, claims 1, 7, 13, 16, 19 and 22 have been amended. No new matter has been added.

35 U.S.C. § 101 Rejections

The Examiner has rejected claims 1-26 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 7, 13, 16, 19 and 22 have been amended. Claims 1, 7, 13, 16, 19 and 22 each produce a useful, concrete and tangible result. Applicants, accordingly, respectfully request withdrawal of the rejections under 35 U.S.C. § 101.

35 U.S.C. § 102 Rejections

The Examiner has rejected claims 1-26 under 35 U.S.C. § 102(e) as being anticipated by Cherry, et al. (U.S Patent Publication No.: 2002/0184093 A1, hereinafter "Cherry").

The Office Action is Improperly Grouping Together and Paraphrasing Claims

First, Applicants note that the Examiner grouped independent claims 1, 7, 13, 16, 19 and 22 together, even though each independent claim includes different limitations. For example, claim 1 is directed to a method, while claim 13 is directed to a computer readable storage medium. In another example, claim 1 is directed to a method that includes allowing secondary bidders to selectively place a secondary bid to augment the primary bid of a primary bidder by a monetary amount, while claim 7 requires determining an order in which to include the associated advertisements of the primary bidders within the results page based at least in part on the total bid for the primary bidder, a limitation not found in claim 1. As explained in more detail below, the Examiner failed to show a teaching in the cited art for all of the limitations of each independent claim. Applicants, therefore, respectfully request the Examiner address the limitations of each independent claim separately.

The Office Action is Not Properly Reading the Cited References onto the Claim Limitations

The Examiner is respectfully reminded that the particular part of a reference relied on in making a rejection must be clearly designated (e.g., by stating the reference numeral of a reference's element and the column and line

numbers where such disclosure may be found as discussed further below) and explained. See 37 C.F.R. 1.104, MPEP 707. [See also e.g., Ex parte Rozzi, 63 USPQ.2d 1196 (2002) and Ex parte Braeken, 54 USPQ.2d 1110, 1112 (1999)].

Applicants submit the reasoning provided in the Office Action is not a cogent attempt to read a reference onto an independent claim of an application and, therefore, has not established that all of the limitations of Applicant's claims are explicitly or inherently described by the prior art reference.

For example, the examiner points to the entire detailed description of Cherry to teach all of the limitations of claims 1-26 without any specific identification of where any of the limitations are found in the Cherry or by identifying which claims the Examiner is addressing.

Although Applicants believe that the Examiner has not met his burden in this matter and that the Office Action is unclear, Applicants are herewith making a response as best as possible in an attempt to advance prosecution of this case. However, if the Examiner continues to advocate the unpatentability of any of the claims in this application, then the Examiner is respectfully requested to specifically designate the particular part of a reference relied on in making a rejection in a cogent manner as indicated above.

Cited Art Fails to Disclose All of the Claim Limitations:

Cherry fails to teach or suggest, inter alia, as claimed in claim 1: “allowing a secondary bidder to selectively place a secondary bid to augment the primary bid of a primary bidder by a monetary amount.” Similar limitations are included in independent claims 7, 13, 16, 19 and 22. Cherry also fails to teach or suggest, inter alia, as claimed in claim 7: “determining the total bid for each primary bidder by combining the primary bid of the primary bidder and each associated secondary bid; determining an order in which to include the associated advertisements of the primary bidders within the results page based at least in part on the total bid for the primary bidder.” Similar limitations are included in independent claims 16 and 22.

Cherry describes a personalized media service in which advertisers bid in real-time for advertisement space. Cherry explains that the service provider 110 queries the advertising providers 150 for advertisement bid based upon user information. The advertising providers 150 submit bids for advertising in the hardcopy of the media request based upon the user information provided. The service provider 110 selects the advertisements it desires from the bids and requests the successfully bidders to submit electronic copies of the advertisements to the service provider 110. Cherry further describes that an advertising provider assigns a value to the advertising spaces and that a single

advertising provider may place multiple bids on the same available advertising space for its clients because it represents different clients. The advertising providers whose bids are accepted are notified and queried for an electronic copy of the advertising material.

However, Cherry does not describe receiving a secondary bid from a secondary bidder to augment a price of a primary bidder, nor does Cherry describe determining a total bid by combining a primary bid and a secondary bid, nor does Cherry describe determining the order of advertisements based on the total bid (i.e., combination of the primary bid and the secondary bid). Instead, Cherry merely describes the ability to receive a primary bid from multiple bidders or one bidder on behalf of multiple clients. There is, however, no augmentation or combination of any of the bids received in Cherry.

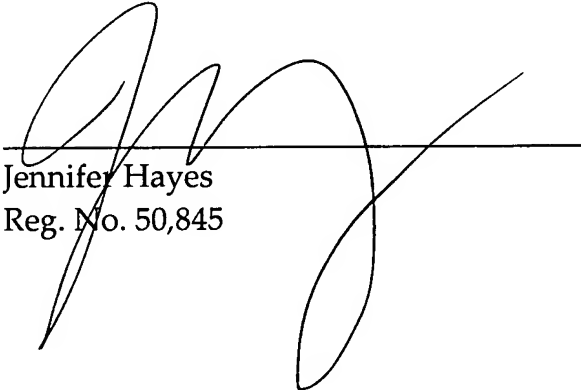
Thus, the cited art fails to teach or suggest all of the limitations of independent claims 1, 7, 13, 16, 19 and 22. Claims 2-6, 8-12, 14-15, 17-18, 20-21 and 23-26 depend, directly or indirectly, from one of the foregoing independent claims. Applicants, accordingly, respectfully request withdrawal of the rejections under 35 U.S.C. § 102.

Applicants respectfully submit that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Jennifer Hayes at (408) 720-8300.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,
Blakely, Sokoloff, Taylor & Zafman LLP

Date: December 13, 2007



Jennifer Hayes
Reg. No. 50,845

1279 Oakmead Parkway
Sunnyvale, California 94085-4040
(408) 720-8300